

Internal Revenue Service

Department of the Treasury

Date: 18 SEP 1987

Employer Identification Number:

Form Number:

1120

Tax Years:

& thereafter

Key District:

Person to Contact:

Contact Telephone Number:

Dear Sir/Madam:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

You are neither organized nor operated exclusively for one or more exempt purposes within the meaning of I.R.C. Section 501(c)(3). Your purposes are broader than those specified in I.R.C. Section 501(c)(3) because your stated purpose is to provide housing and social activities for members. Your operations further private, rather than public, interests and your net earnings inure to the benefit of private individuals.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

(over)

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

[REDACTED]

Associate Chief,
Appeals Office

cc: [REDACTED]

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date: 3 MAY 1981

CERTIFIED MAIL

Dear Sir/Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code and the information submitted in support thereof.

The information submitted indicates that you were organized pursuant to an association agreement [redacted]. You stated purposes are to serve the interest of the group with reference to providing orientation, housing, employment, social activities and to strengthen the cooperative education students' collective and individual identity.

Membership in your organization is limited to [redacted] working at the [redacted]. Your primary function is to provide housing for your members while in pay status. For this purpose, you lease apartments in [redacted] townhouse developments in [redacted], and sublet them to your members, assigning several members to each unit. The roommates share the cost of rent and utilities. You also maintain a Rent Equalization Fund which provides reimbursement to those members whose share of rent and utilities is greater than a limit established annually by your members.

Other activities include social get-togethers for your members and other [redacted] Students, and buying furniture for use by the members in the apartments.

Your income is from rent, dues, and assessments. Expenses have been for rent, rent reimbursement, furniture, social activities and on at least one occasion, moving expense to relocate members to a new apartment.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date							

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order for an organization to be exempt under section 501(c)(3) of the Code it must be organized and operated exclusively for one or more purposes specified in such section.

Section 1.501(c)(3)-1(b) of the Income Tax Regulations states an organization is not "organized exclusively" for 501(c)(3) purposes unless the articles limit the purposes of the organization to purposes specified in 501(c)(3), and do not empower the organization to engage, other than as an insubstantial part of its activities, in activities which are not themselves in furtherance of 501(c)(3) purposes.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization is operated exclusively for the purposes set out in section 501(c)(3) of the Code only if substantially all of its activities are in furtherance of these purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3) unless it serves a public rather than a private interest. Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes if more than an insubstantial part of its activities serve a private interest.

Rev. Rul. 64-188, 1964-1 C.B. (Part I), page 183 held that leasing housing to members of a fraternity was not an activity exempt under 501(c)(3). Likewise, Rev. Rul. 59-573, 1969-2 C.B., page 176, held that a college fraternity that maintains a chapter house for its student members is not exempt under 501(c)(3), since it is not operated as an integral part of the college and the college has no direct control over it, and by providing housing and social activities is not exclusively charitable or educational.

Conversely, Rev. Rul. 76-336, 1976-2 C.B. 143 held that providing housing for college students is exempt when its purpose is exclusively the advancement of education. The case considered in this ruling provided student housing adjacent to the college, where student housing was otherwise unavailable, and the organization worked closely with the college to assure that the needs of the college and its students were served by operation of the housing facility.

Information submitted shows that you are not controlled by or working in conjunction with any college or university. On the contrary, you are providing housing only for your members in a manner similar to a fraternity, and you are providing housing for your members only while they are in pay status. In this regard, and in the social activities sponsored, you are operated in a manner similar to a fraternity except for the fact housing is provided only during periods of employment, not while enrolled in classes. There is no evidence that either a charitable or an educational purpose is being served.

In addition, since the housing is provided only for your members, you are operated for private rather than public purposes. Your rent reimbursement program, not tied to equal cost for equal facilities, and the instance of paying moving expenses for some members, provides prohibited inurement of benefit.

Further, since your stated purpose is to provide housing and social activities for members, your purposes are broader than those specified in section 501(c)(3) of the Code.

Therefore, based on the information you submitted, you are neither organized nor operated exclusively for charitable, educational, or other purposes described in section 501(c)(3). Accordingly, we hold that you are not exempt under section 501(c)(3) of the Code.

Based on the information supplied, exempt status will not be recognized under any related section of the Internal Revenue Code.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

A copy of this letter will be sent to the appropriate state officials in accordance with Section 6104(c) of the Internal Revenue Code.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely,

[REDACTED]
District Director

Enclosure:

Publication 892